

## **CEQA INFORMATION FOR GRANTEES: Process, Greenhouse Gas Analysis, and Climate Change**

This Information Applies to projects funded through DWR grant programs

### **Reopening CEQA process**

- If DWR has executed a Grant Agreement for a project and has reviewed and made a determination on the CEQA document for the project, or has allowed construction to commence, it will usually not reopen the CEQA process.
- CEQA requires that project review be re-opened at such time as a discretionary decision is being made if (1) substantial changes are proposed in the project or substantial changes occur with respect to the conditions under which the project is undertaken or (2) there is new information of substantial importance, which was not known and could not have been known at the time the EIR was certified or the ND adopted regarding an impact or mitigation measure. (CEQA Guidelines, § 15162)

### **Greenhouse Gas Emissions**

- Recent case law indicates that Greenhouse Gas (GHG) emissions do not fall into the category of an impact for which there is new information of substantial importance that was not known or could not have been known previously i.e., at the time an EIR was certified or an ND adopted by the lead agency. Therefore, a supplemental document is not required to address GHGs absent other new information of substantial importance.
- DWR may ask an applicant for additional information on environmental impacts even if it is not required under CEQA. Under CEQA, a responsible agency can decide (1) to fund a project even if it has adverse environmental impacts (2) not to fund a project because of its adverse environmental impacts or (3) require changes in the project to reduce adverse environmental impacts. In addition, DWR operates under its own authority which includes statutes, regulations, and guidelines which give it the ability to ask for any information needed to make its decisions.
- Generally, if a supplemental document is prepared for a project and GHG emissions impacts were not analyzed in the original EIR, GHG emissions do not need to be analyzed in the supplemental EIR if they are expected to remain unchanged. However, all features or impacts from the project that are expected to change must be analyzed in a supplemental document using current standards. These new standards apply to the analysis of GHG emission impacts

which must be analyzed for the entire project as modified, not just for the changes to the project.

#### **Effect of Climate Change on the Project**

- The issue of whether a CEQA document should also address the effect of climate change on the project is currently being litigated in the courts. CEQA requires a project's potentially significant adverse impacts on the environment to be evaluated. Even if not required, there is nothing in CEQA that prevents a Lead Agency from considering the effect of climate change on the project.

*The information contained within this document shall not be deemed or construed as legal advice. Potential grantees seeking legal advice in response to the information contained within this document should obtain such advice from their own legal counsel.*